



PUBLIC NOTICE

Federal Communications Commission
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DA 03-3598

Released: November 7, 2003

**DOMESTIC SECTION 214 APPLICATION FILED FOR TRANSFER OF CONTROL OF
NUI TELECOM, INC. FROM NUI CAPITAL CORP. TO TELECOM ACQUISITION
COMPANY, LLC**

STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket No. 03-226

On October 27, 2003, NUI Telecom, Inc. (Company), NUI Capital Corp. (Transferor), and Telecom Acquisition Company, LLC (Transferee or TAC) (collectively, the Applicants), pursuant to sections 63.03 and 63.04 of the Commission's rules,¹ requested consent to transfer control of the Company from NUI Capital Corp. to TAC.²

Applicants assert that this transaction is entitled to presumptive streamlined treatment pursuant to section 63.03(b)(1)(ii) of the Commission's rules because neither the Transferee nor the Transferor provide telecommunications services.³

The Company is a corporation organized under the laws of New Jersey. The Company is a non-dominant carrier that provides intrastate, interstate and international long distance services through the resale of purchased services from various facilities-based carriers. The Company is authorized by the Commission to offer domestic interstate and international service in 50 states and the District of Columbia as a non-dominant carrier. NUI Capital Corp. is a corporation organized under the laws of Delaware. TAC is a limited liability company organized under the laws of New Jersey. Advance Capital Partners, LLC and JADM Partners, LP each separately hold 43.5 percent of the TAC's equity. Richard Boudria, the current President of the Company,

¹ 47 C.F.R. §§ 63.03, 63.04; *see* 47 U.S.C. § 214.

² Applicants are also filing applications for transfer of control associated with authorization for international services. Any action on this domestic 214 application is without prejudice to Commission action on other related pending applications.

³ 47 C.F.R. § 63.03(b)(1)(ii).

owns 13 percent of the equity of TAC. Applicants state that neither the Transferor nor TAC is an authorized telecommunications provider.

Upon closing of the proposed transaction, NUI Capital Corp. will transfer all of the issued stock of the Company to TAC. Applicants maintain that the present intent of TAC is to continue the Company name, personnel, operations, services and prices as they currently exist. The Company will continue to operate as a non-dominant carrier.

The Applicants state that this proposed transaction will serve the public interest, because TAC brings qualified management and the possibility of additional capital to the Company to allow access to newer products and continued quality services at reasonable prices. Applicants state that the Company will continue to provide high-quality communications services to its customers without interruption and without immediate changes in rates, terms, or conditions. Moreover, Applicants contend that because the Transferee is not a telecommunications provider, no anticompetitive effects will result from the grant of this application.

GENERAL INFORMATION

The transfer of control identified herein has been found, upon initial review, to be acceptable for filing as a streamlined application. The Commission reserves the right to return any transfer of control application if, upon further examination, it is determined to be defective and not in conformance with the Commission's rules and policies. Interested parties may file **comments within 14 days** and **reply comments within 21 days** of this notice.⁴ Unless otherwise notified by the Commission, Applicants are permitted to transfer on the 31st day after the date of this notice.⁵ Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 Fed. Reg. 24121 (1998).

Comments filed through the ECFS can be sent as an electronic file via the Internet to <<http://www.fcc.gov/e-file/ecfs.html>>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send e-mail to ecfs@fcc.gov, and should include the following words in the subject line "get form <your e-mail address>." A sample form and directions will be sent in reply.

⁴ See 47 C.F.R. § 63.03(a).

⁵ Such authorization is conditioned upon receipt of any other necessary approvals from the Commission in connection with the proposed transaction.

Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW, Washington, D.C. 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

In addition, one copy of each pleading must be sent to each of the following:

- (1) the Commission's duplicating contractor, Qualex International, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554; e-mail: qualexint@aol.com; facsimile: (202) 863-2898; phone: (202) 863-2893;
- (2) Tracey Wilson, Competition Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-C437, Washington, D.C. 20554; e-mail: Tracey.Wilson-Parker@fcc.gov;
- (3) Dennis Johnson, Competition Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 6-A461, Washington, D.C. 20554; e-mail: Dennis.Johnson@fcc.gov;
- (4) Julie Veach, Competition Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-C124, Washington, D.C. 20554; e-mail: Julie.Veach@fcc.gov;
- (5) Cynthia Bryant, Telecommunications Division, International Bureau, 445 12th Street, S.W., Room 7-A623, Washington, D.C. 20554; email: Cynthia.Bryant@fcc.gov; and
- (6) Christopher Killion, Office of General Counsel, 445 12th Street, S.W., Room 8-C740, Washington, D.C. 20554; e-mail: Christopher.Killion@fcc.gov.

Filings and comments are also available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY-A257, Washington, DC, 20554. They may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY-B402,

Washington, DC, 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail qualexint@aol.com.

For further information, please contact Tracey Wilson, at (202) 418-1394, or Dennis Johnson at (202) 418-0809.

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